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10/567,474	02/03/2006	**Andreas Michl**	01012-1038	9387

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DITTHAVONG MORI & STEINER, P.C.
918 Prince Street
Alexandria, VA 22314

EXAMINER	
LEE, JAE YOUNG	
ART UNIT	**PAPER NUMBER**
2466	

NOTIFICATION DATE	DELIVERY MODE
11/24/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dcpatent.com

Office Action Summary	Application No.	Applicant(s)	
	10/567,474	MICHL, ANDREAS	
	Examiner	Art Unit	
	JAE Y. LEE	2466	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 September 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4,6-11,13 and 15-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 2, 4, 6-11, 13, and 15-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendments

1. Claims 3, 5, 12, and 14 have been cancelled.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 2, 4, 6-11, 13, and 15-21 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. **Claim 1, 2, 4, 6-11, 13, 15-21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Pruthi (US 2002/0105911) in view of Bahadiroglu (US

2002/0186660), Ennis, Jr. et al. (US 5,867,483, hereinafter Ennis) and Hilliker (US 2002/0100422).

For claims 1, 10, Pruthi discloses a system and method comprising:

- a message analyzer for analyzing messages which are transmitted, the message analyzer comprising (Fig. 1: computer C1; F1ig 10: traffic visualizer):
- a storage device for storing messages (Fig. 3: 318: paragraph 0036 line 2: memory);
- a selector for reading in a sequence of temporally successive messages (paragraph 0036 lines 3-5: processor and query engine generating statistics corresponding to the packets);
- a display device (paragraph 0037 lin7e 11) for displaying, on a single screen, a first region and one a second region, wherein a the sequence of messages, is read in by means of the selector from the storage device be and displayed listed in the first region (Fig. 17, Fig. 20),
- wherein the selector determines, for the first characteristic feature of the messages which are transmitted and the a course of this the first characteristic feature is displayed on the display device in the second region (Fig. 20: TCP level bit rate)
- additional item of information stored during storage of messages in the storage device (Fig. 17: sequence of messages; paragraph 0036 lines 13-16:

statistics in memory; paragraph 0037 lines 8-11: providing the statistics to display device)

Pruthi discloses all the subject matter of the claimed invention with the exception for at least one service access points from layers of an Open Systems Interconnection (OSI) reference model and end system of a subscriber of a mobile telephone system. Bahadiroglu discloses at least one service access points from layers of an Open Systems Interconnection (OSI) reference model (paragraph 0089 lines 1-8: SAP, OSI protocol model) and end system of a subscriber of a mobile telephone system (paragraph 0036 line 5: mobile node; paragraph 0073 line 3-15: network is interconnected by lines including fiber optic cables, wireless connections connected to processing device or mobile phone). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate at least one service access points from layers of an Open Systems Interconnection (OSI) reference model and end system of a subscriber of a mobile telephone system of Bahadiroglu to the method and the system of Pruti. The motivation would have been to provide adaptive packet mechanism for optimizing data packet transmission through a connection between the sending node and the receiving node (Bahadiroglu paragraph 0047 lines 1-7).

Pruthi and Bahadiroglu disclose all the subject matter of the claimed invention with the exception for the sequence of messages read in by the selector is dependent upon a selection with which a specific point of the course of the first characteristic feature selected is selectable in the second region, selectable marking, and upon

selection of the marking, a sequence of messages which corresponds to the specific point of the selected marking is read in from the storage device. Ennis discloses the sequence of messages read in by the selector is dependent upon a selection with which a specific point of the course of the first characteristic feature selected is selectable in the second region, selectable marking, and upon selection of the marking, a sequence of messages which corresponds to the specific point of the selected marking is read in from the storage device (Fig. 11; col 15 lines 7-14: a pointer is manipulable via mouse along the bar graph horizontal axis to select a particular fifteen minute interval for which a corresponding pie chart 84,86 is generated and the pie chart is displayed directly below the bar graph from which the fifteen minute interval is selected, and includes a label indicating the actual time of day the selected interval represents; Fig. 3 12: probe, 35: RAM; col 15 lines 36: 45: console retrieves the appropriate probe data from the short term database tables). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate the sequence of messages read in by the selector is dependent upon a selection with which a specific point of the course of the first characteristic feature selected is selectable in the second region, selectable marking, and upon selection of the marking, a sequence of messages which corresponds to the specific point of the selected marking is read in from the storage device of Ennis to the method and the system of Pruthi and Bahadiroglu. The motivation would have been to provide a system for displaying information on a display device such that the information is easily perceivable by a user by using various charts, e.g. plot, histogram, and pie.

Pruthi, Ennis, and Bahadiroglu disclose all the subject matter of the claimed invention with the exception for the display device is configured to display a marking produced automatically by the selector in the second region based on a predefined additional item of information. Hilliker discloses the display device is configured to display a marking produced automatically by the selector in the second region based on a predefined additional item of information (Fig. 5B; paragraph 0045 lines 1-10: test output generated by network analyzer for test configuration including a plot of attenuation versus frequency, and a table of values corresponding to the markers on plots, see also paragraph 0046). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate the display device is configured to display a marking produced automatically by the selector in the second region based on a predefined additional item of information of Hilliker to the method and the system of Pruthi, Ennis, and Bahadiroglu. The motivation would have been to enhance user interface.

For claims 2, 11, Pruthi discloses

- the selector (paragraph 0036 lines 3-5: processor and query engine generating statistics corresponding to the packets) determines a second characteristic feature for messages which are transmitted, and the a course of the second characteristic feature is displayed on the display device in the second region of the display device (Fig. 20: TCP level packet rate)

Pruthi discloses all the subject matter of the claimed invention with the exception for a plurality of service access points of a layer of the OSI reference model. Bahadiroglu discloses a plurality of service access points of a layer of the OSI reference model (paragraph 0089 lines 1-8: SAP, OSI protocol model). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate a plurality of service access points of a layer of the OSI reference model of Bahadiroglu to the method and the system of Pruti. The motivation would have been to provide adaptive packet mechanism for optimizing data packet transmission through a connection between the sending node and the receiving node (Bahadiroglu paragraph 0047 lines 1-7).

For claim 4, 13, Pruthi discloses the system comprising:

- message analyzer for analyzing messages which are transmitted, the message analyzer comprising (Fig. 1: computer C1; Fig 10: traffic visualizer): a storage device for storing messages (Fig. 3: 318: paragraph 0036 line 2: memory);
- a storage device for storing messages (Fig. 3: 318: paragraph 0036 line 2: memory);
- a selector for reading in a sequence of temporally successive messages (paragraph 0036 lines 3-5: processor and query engine generating statistics corresponding to the packets);

- a display device (paragraph 0037 line 11) for displaying, on a single screen, a first region and one a second region, wherein a the sequence of messages, is read in by means of the selector from the storage device be and displayed listed in the first region (Fig. 17, Fig. 20),
- wherein the selector determines, for the first characteristic feature of the messages which are transmitted and the a course of this the first characteristic feature is displayed on the display device in the second region (Fig. 20: TCP level bit rate),
- wherein a sequence of messages is read in from the storage device (Fig. 17: sequence of messages; paragraph 0036 lines 13-16: statistics in memory; paragraph 0037 lines 8-11: providing the statistics to display device)

Pruthi discloses all the subject matter of the claimed invention with the exception for at least one service access points from layers of an Open Systems Interconnection (OSI) reference model and end system of a subscriber of a mobile telephone system. Bahadiroglu discloses at least one service access points from layers of an Open Systems Interconnection (OSI) reference model (paragraph 0089 lines 1-8: SAP, OSI protocol model) and end system of a subscriber of a mobile telephone system (paragraph 0036 line 5: mobile node; paragraph 0073 line 3-15: network is interconnected by lines including fiber optic cables, wireless connections connected to processing device or mobile phone). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate at least one service access points from layers of an Open Systems Interconnection (OSI)

reference model and end system of a subscriber of a mobile telephone system of Bahadiroglu to the method and the system of Pruti. The motivation would have been to provide adaptive packet mechanism for optimizing data packet transmission through a connection between the sending node and the receiving node (Bahadiroglu paragraph 0047 lines 1-7).

Pruthi and Bahadiroglu disclose all the subject matter of the claimed invention with the exception for a sequence of messages is dependent upon a selection with which specific point of the first characteristic feature is selectable in the second region. Ennis discloses a sequence of messages is dependent upon a selection with which specific point of the first characteristic feature is selectable in the second region (Fig. 11; col 15 lines 7-14: a pointer is manipulable via mouse along the bar graph horizontal axis to select a particular fifteen minute interval for which a corresponding pie chart 84,86 is generated and the pie chart is displayed directly below the bar graph from which the fifteen minute interval is selected, and includes a label indicating the actual time of day the selected interval represents). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate a sequence of messages is dependent upon a selection with which specific point of the first characteristic feature is selectable in the second region of Ennis to the method and the system of Pruthi and Bahadiroglu. The motivation would have been to provide a system for displaying information on a display device such that the information is easily perceivable by a user by using various charts, e.g. plot, histogram, and pie.

Pruthi, Ennis, and Bahadiroglu disclose all the subject matter of the claimed invention with the exception for at least one a plurality of specific point is points are marked by a marking respective markings in the course displayed in the second region and, upon selection of a marking of the marking markings, a sequence of messages which corresponds to the specific point of the selected marking. Hilliker discloses at least one a plurality of specific point is points are marked by a marking respective markings in the course displayed in the second region and, upon selection of a marking of the marking markings, a sequence of messages which corresponds to the specific point of the selected marking (Fig. 5; paragraph 0045 lines 1-10: test output generated by network analyzer for test configuration including a plot of attenuation versus frequency, and a table of values corresponding to the markers on plots). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate at least one a plurality of specific point is points are marked by a marking respective markings in the course displayed in the second region and, upon selection of a marking of the marking markings, a sequence of messages which corresponds to the specific point of the selected marking of Hilliker to the method and the system of Pruthi, Ennis, and Bahadiroglu. The motivation would have been to enhance user interface.

For claim 6, 15, Pruthi discloses

- the course of the first characteristic feature is displayed in the second region in a coordinate system, wherein the X axis of the coordinate system is a time axis (Fig. 20: plot of TCP level bit rate)

For claim 7, 16, Pruthi discloses

- the third region (Fig. 17) of the course displayed in the second region which corresponds respectively to the sequence of messages currently displayed in the first region (Fig. 20)

Pruthi does not explicitly disclose highlighting. However, Pruthi discloses the third region of the course displayed in the second region which corresponds respectively to the sequence of messages currently displayed in the first region (Fig. 17, Fig. 20). Therefore, it is obvious to one having ordinary skill in the art at the time is able to recognize the information of messaging since highlighting is known to the artisan of ordinary skill as design choice.

For claim 8, 17, Pruthi discloses

- the course of the first characteristic feature is displayed in the second region in a coordinate system, wherein the X axis of the coordinate system is subdivided into intervals (Fig. 20: TCP level bit rate; paragraph 0038 lines 6-9: packets divided into sets during one of successive one-second time periods).

Pruthi does not explicitly disclose each having an identical number of messages. However, Pruthi discloses TCP level bit rate (Fig. 20) and packets divided into sets during one of successive one-second time periods (paragraph 0038 lines 6-9). Therefore, it is obvious to one having ordinary skill in the art at the time is able to use the identical number of messages during sampling time because the packets divided into sets during one of successive one-second time periods. The motivation would have been to improve reliability by monitoring data on the communication line.

For claim 9, Pruthi discloses

- the first characteristic feature is a number of transmitted messages per interval of time or a data load or a number of messages transmitted repeatedly (Fig. 20: TCP level bit rate).

Pruthi discloses all the subject matter of the claimed invention with the exception for a layer of the OSI reference model. Bahadiroglu discloses a layer of the OSI reference model (paragraph 0089 lines 1-8: OSI protocol model). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate a layer of the OSI reference model of Bahadiroglu to the method and the system of Pruti. The motivation would have been to provide adaptive packet mechanism for optimizing data packet transmission through a connection between the sending node and the receiving node (Bahadiroglu paragraph 0047 lines 1-7).

For claims 18, 20, Pruthi discloses

- test run (Fig 10: traffic visualizer)

Pruthi, Ennis, and Bahadiroglu disclose all the subject matter of the claimed invention with the exception for the predefined additional item of information is defined as a specific event that occurs. Hilliker discloses the predefined additional item of information is defined as a specific event that occurs (Fig. 5; paragraph 0045 lines 1-10: test output generated by network analyzer for test configuration including a plot of attenuation versus frequency, and a table of values corresponding to the markers on plots). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate the predefined additional item of information is defined as a specific event that occurs of Hilliker to the method and the system of Pruthi, Ennis, and Bahadiroglu. The motivation would have been to enhance user interface.

For claims 19, 21, Pruthi discloses

- test run (Fig 10: traffic visualizer)

Pruthi, Ennis, and Bahadiroglu disclose all the subject matter of the claimed invention with the exception for the specific event is a change of attenuation. Hilliker discloses the specific event is a change of attenuation (Fig. 5; paragraph 0045 lines 1-10: test output generated by network analyzer for test configuration including a plot of attenuation versus frequency, and a table of values corresponding to the markers on plots). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate the specific event is a change of

attenuation of Hilliker to the method and the system of Pruthi, Ennis, and Bahadiroglu. The motivation would have been to enhance user interface.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jae Y. Lee whose telephone number is (571) 270-3936. The examiner can normally be reached on Monday through Friday from 7:30 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Ryman can be reached on (571) 272-3152. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jae Y Lee/
Examiner, Art Unit 2466

/Jason E Mattis/
Primary Examiner, Art Unit 2461